



APPENDIX A.

UNITED STATES STATUTES.

FEDERAL POWER ACT (OF 1935), SECTION 19. (FEDERAL -
WATER POWER ACT, OF 1920, SECTION 19, NOT
CHANGED BY ACT OF 1935).

[16 U. S. C. A. §812, June 10, 1920, c. 285, §19, 41
Stat. 1073.]

SEC. 19. That as a condition of the license, every licensee hereunder which is a public-service corporation, or a person, association, or corporation owning or operating any project and developing, transmitting, or distributing power for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any licensee hereunder or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such licensee or by its customer engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such license that jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

FEDERAL POWER ACT (OF 1935), SECTION 20. (FEDERAL
WATER POWER ACT OF 1920, SECTION 20, NOT
CHANGED BY ACT OF 1935.)

[16 U. C. S. A. §813, June 10, 1920, c. 285, §20,
41 Stat. 1073.]

SEC. 20. That when said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such licensee, or by any subsidiary corporation, the stock of which is owned or controlled directly or indirectly by such licensee, or by any person, corporation, or association purchasing power from such licensee for sale and distribution or use in public service shall be reasonable, non-discriminatory, and just to the customer and all unreasonable discriminatory and unjust rates or services are hereby prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties or such States are unable to agree through their properly constituted authorities on the services to be rendered or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved, upon the request of any State concerned, or upon its own initiative to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce and to regulate the issuance of securities by the parties included within this section, and securities issued by the licensee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such licensee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure

and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the Act to regulate commerce, approved February 4, 1887, as amended, and that the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any project or projects under license in excess of the value or values prescribed in section 14 hereof for the purposes of purchase by the United States, but there shall be included the cost to such licensee of the construction of the lock or locks or other aids of navigation and all other capital expenditures required by the United States, and no value shall be claimed or allowed for the rights granted by the commission or by this Act.

FEDERAL POWER ACT (OF 1935), SECTION 201.
(ADDED BY ACT OF 1935.)

[16 U. S. C. A. (Supp.) §824, as added August 26, 1935, c. 687, Title II, §213, 49 Stat. 847].

SEC. 201. *Declaration of policy, application of part; definitions.*

(a) It is hereby declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in this Part and the Part next following and of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.

(b) The provisions of this Part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this Part and the Part next following, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

(c) For the purpose of this Part, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

(d) The term "sale of electric energy at wholesale" when used in this Part means a sale of electric energy to any person for resale.

(e) The term "public utility" when used in this Part or in the Part next following means any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part.

(f) No provision in this Part shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto.

APPENDIX B.

NINTH ANNUAL REPORT OF THE FEDERAL POWER COMMISSION TO CONGRESS (1929), pp. 5-6.

REGULATORY JURISDICTION OF COMMISSION.

In the eighth annual report of the commission the regulatory jurisdiction conferred under the act was discussed at considerable length. It was pointed out that to attempt the exercise of regulation over rates, service, or security issues in a limited number of isolated cases scattered throughout the country would quite likely involve unreasonable expense and delay. Very wisely, Congress by the act subordinated the regulatory powers of the commission to the jurisdiction exercised by the several States. It expressly provided in section 19 that this commission might undertake control over the rates, service, or security issues of public-utility licensees engaged in intrastate business only until the State concerned had authorized a commission or other agencies to exercise such regulation. Relative to licensees engaged in interstate public-utility business section 20 of the act authorized the commission to perform regulatory functions only when one of the States concerned has not created proper regulatory authority or when the States are unable to agree between themselves.

It seems clear, therefore, that Congress thought of the control of electrical utilities as a local problem and that the imposition of a superior authority would be needed only in the event of disputes between States. Doubtless it was recognized that electric power must of necessity be used in the immediate vicinity of its production and that its transportation lacks the complicated interstate relations affecting large groups of States, as in the case of railroad transportation. Being a local problem it was considered that its control might best be attained by local responsibility and local opinion.

During the nine years that have passed since the enactment of the law its administration has suggested no need for altering the present scope of its regulatory provisions. Necessarily, the activities of this character have been small under the limited jurisdiction conferred. Practically all of the States in which power plants are being operated under license authorization have duly constituted agencies to control the service rendered and rates charged to consumers.

As a matter of fact, the generating capacity operating under license from the commission comprises such a small portion of the total in public-utility service throughout the country that it would hardly be considered more than a minor factor under any circumstances. This is best illustrated by reference to Table No. 2 on the following page.

It will be observed that the 75 plants operating under license from the commission are confined to 21 of the States and have aggregate capacity of about 2,500,000 horsepower. This represents slightly less than 25 per cent of the total water-power capacity and only 6.3 per cent of the total capacity in public-utility service. State regulatory commissions are functioning in each one of the States containing licensed public-utility plants with the exception of Kentucky and Minnesota, where local community control is practiced. The only case of an interstate character in which the commission has been called upon to participate concerned the Conowingo plant, where some cooperation was extended to the Maryland and Pennsylvania public-service commissions relative to the control of security issues and rate agreements.

APPENDIX C.

Concerning the Conowingo case the Federal Power Commission, in its Sixth Annual Report, said *inter alia*:

"Such jurisdiction or power is limited to those cases where there is no State agency authorized to

regulate security issues. The first exercise by the commission of this authority occurred during the fiscal year covered by this report and in connection with what is known as the 'Conowingo project' now being constructed on the Susquehanna River a few miles above tidewater, near the village of Conowingo, Md."

* * *

"The Maryland commission has jurisdiction over the issuance of securities by public-utility corporations in that State, but the Pennsylvania commission has no such authority." [Exhibit No. 32; A. II, 394, 395, 397.]